National Labor Relations Board



Weekly Summary of NLRB Cases

Division of Information	Washington, D.C. 20570	Tel. (202) 273-1991
April 18, 2008		W-3152
VI	CASES SUMMARIZED SIT <u>WWW.NLRB.GOV</u> FULL TEXT	
Bally's Atlantic City	Atlantic City	1
Solartec, Inc.	Salem, OH OTHER CONTENTS	1
List of Decisions of Administrative Law Judges		2
No Answer to Complaint Case		2
No Answer to Compliance Specification Case		2
 List of Unpublished Board Decisions and Orders in Representation Cases Contested Reports of Regional Directors and Hearing Officers Uncontested Reports of Regional Directors and Hearing Officers Requests for Review of Regional Directors' Decisions and Directions of Elections and Decisions and Orders 		2

The Weekly Summary of NLRB Cases is prepared by the NLRB Division of Information and is available on a paid subscription basis. It is in no way intended to substitute for the professional services of legal counsel, or for the authoritative judgments of the Board. The case summaries constitute no part of the opinions of the Board. The Division of Information has prepared them for the convenience of subscribers.

Miscellaneous Board Decisions and Orders

If you desire the full text of decisions summarized in the Weekly Summary, you can access them on the NLRB's Web site (www.nlrb.gov). Persons who do not have an Internet connection can request a limited number of copies of decisions by writing the Information Division, 1099 14th Street, NW, Suite 9400, Washington, DC 20570 or fax your request to 202/273-1789. As of August 1, 2003, Administrative Law Judge decisions are on the Web site.

All inquiries regarding subscriptions to this publication should be directed to the Superintendent of Documents, U. S. Government Printing Office, Washington, DC 20402, 202/512-1800. Use stock number 731-002-0000-2 when ordering from GPO. Orders should not be sent to the NLRB.

Bally's Park Place, Inc., d/b/a Bally's Atlantic City (4-RC-21286; 352 NLRB No. 51) Atlantic City, NJ April 11, 2008. The Board affirmed the administrative law judge's overruling of the Employer's objections and adopted his recommendation for certification of the Union as the employees' representative. The Union won the election by a vote of 628 to 255, with 141 non-determinative challenged ballots. [HTML] [PDF]

The judge found, first, that the Employer did not establish that the absence of election notices translated into 9 foreign languages required a new election. Second, he found that the Employer did not prove that Union observer Suisung Wong improperly signaled employees to vote for the Union during the voting process. Finally, the judge found that, even assuming that agents of the Union threatened employee Joseph Wanek before the election, the threat was isolated and not significantly disseminated, and thus could not have adversely affected the election.

In adopting the judge's decision, the Board affirmed his denial of the Employer's motion for the judge's recusal on grounds of prejudice, and the Board also rejected the Employer's biasand-prejudice exceptions. In addition, the Board found it unnecessary to consider whether observer Wong intended to signal employees to vote for the Union, since his subjective intent is not a relevant consideration. Finally, the Board agreed with the judge that the Employer's evidence concerning notice-translation practices in other regional offices is irrelevant, and that even assuming relevance, the Employer did not prove that the Regional Director's denial of the Employer's notice-translation request was inconsistent with any Board-wide practice.

(Chairman Schaumber and Member Liebman participated.)

Solartec, Inc. and Sekely Industries, Inc. (8-CA-31857; 352 NLRB No. 52) Salem, OH April 11, 2008. The Board adopted the administrative law judge's finding that the Respondent violated Section 8(a)(3) and (1) of the Act by terminating Robert Stallsmith because of his union activity. The Respondent argued that the termination was lawful because Stallsmith was a managerial employee. The Board found that Stallsmith did not exercise sufficient discretion in purchasing and related functions to be a managerial employee. The Board also found that Stallsmith was not sufficiently aligned with management to hold such status. [HTML] [PDF]

(Chairman Schaumber and Member Liebman participated.)

Charge filed by Auto Workers (UAW); complaint alleged violations of Section 8(a)(3) and (1). Hearing at Cleveland on June 11, 2007. Adm. Law Judge Margaret G. Brakebusch issued her decision Aug. 23, 2007.

LIST OF DECISIONS OF ADMINISTRATIVE LAW JUDGES

Majestic Towers, Inc. d/b/a Wilshire Plaza Hotel (UNITE HERE Local 11) Los Angeles, CA April 7, 2008. 31-CA-28135, et al.; JD(SF)-16-08, Judge Gregory Z. Meyerson.

Texas Dental Association (Individuals) Austin, TX April 10, 2008. 16-CA-25349, et al.; JD(ATL)-12-03, Judge George Carson II.

NO ANSWER TO COMPLAINT

(In the following case, the Board granted the General Counsel's motion for summary judgment based on the Respondent's failure to file an answer to the complaint.)

Brian David Sanderson d/b/a ABS Heating and Cooling (Sheet Metal Workers Local 7) (7-CA-50842; 352 NLRB No. 50) Linden, MI April 7, 2008. [HTML] [PDF]

NO ANSWER TO COMPLIANCE SPECIFICATION

(In the following case, the Board granted the General Counsel's motion for summary judgment based on the Respondent's failure to file an answer to the compliance specification.)

Mays Electric Co., Inc., and Mays Electrical Services Corp. (an Individual and Electrical Workers [IBEW] Local 666) (5-CA-31247, 31371; 352 NLRB No. 49) Lynchburg, VA April 10, 2008. [HTML] [PDF]

LIST OF UNPUBLISHED BOARD DECISIONS AND ORDERS IN REPRESENTATION CASES

(In the following cases, the Board considered exceptions to Reports of Regional Directors or Hearing Officers)

DECISION AND CERTIFICATION OF REPRESENTATIVE

Multi-Flow Dispensers of Toledo, Inc. d/b/a Beverage Dispensing Systems, Toledo, OH, 8-RC-16923, April 10, 2008 (Chairman Schaumber and Member Liebman) Clark Nursing and Rehabilitation Center, Clark, NJ, 22-RC-12867, April 10, 2008 (Chairman Schaumber and Member Liebman)

(In the following cases, the Board adopted Reports of Regional Directors or Hearing Officers in the absence of exceptions)

DECISION AND CERTIFICATION OF REPRESENTATIVE

Hillside Manor Nursing d/b/a Hillside Healthcare Center and Hillside Place, Missoula, MT, 19-RD-3766, April 10, 2008

DECISION AND DIRECTION [that Regional Director open and count ballots]

Long Island Jet Center, LLC d/b/a Sheltair Aviation Services, Farmingdale, NY, 29-RC-11529, April 10, 2008

Venture Steel, Inc., d/b/a Acesco Caribe Mfg., Bayamon, PR, 24-RC-8587, April 10, 2008

DECISION AND ORDER [remanding proceeding to Regional Director for further appropriate action]

Aramark Educational Services, Inc., Brookville, NY, 29-RC-11432, April 10, 2008 Sunbelt Rentals, Inc., Fort Wayne, IN, 25-RC-10406, April 10, 2008

(In the following cases, the Board denied requests for review of Decisions and Directions of Elections (D&DE) and Decisions and Orders (D&O) of Regional Directors)

Modesto Hospitality, LLC d/b/a Doubletree Hotel Modesto, Modesto, CA, 32-RC-5546, April 10, 2008 (Chairman Schaumber and Member Liebman)

Miscellaneous Board Decisions and Orders

CERTIFICATION OF REPRESENTATIVE AS BONA FIDE UNDER SECTION 7(B) OF THE FAIR LABOR STANDARDS ACT OF 1938

Glenn-Colusa Irrigation District, Willows, CA, 20-WH-18, April 11, 2008
